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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/783,220  | 02/19/2004  | Roland A. Foubert    | 2340-67880          | 7404             |
| 24197   | 7590        | 04/19/2005           | EXAMINER            |                  |
| KLARQUIST SPARKMAN, LLP<br>121 SW SALMON STREET<br>SUITE 1600<br>PORTLAND, OR 97204 |             |                      | GRAY, LINDA L       |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 1734                |                  |

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/783,220

Applicant(s)

FOUBERT ET AL.

Examiner

Linda L. Gray

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2004 and 07 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date filed 2-19-04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

*re*

**Detailed Action**

**Election/Restriction**

1. Applicant's election without traverse of claims 21-25 in the reply filed on 2-7-05 is acknowledged.

**Specification**

2. The specification is objected to because the status of the prior application on page 1 should be updated.

**Claim Rejections - 35 USC 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bergstein (US 2,628,179).**

**Claim 21**, Bergstein teaches a method for forming cutting edge 16 on a dispensing carton where edge 16 is a film and the carton is of paper. The method includes supplying roll 29 of tape 28 to an application station at roller 31, applying a length of tape 28 to a length of carton board 21 and laminating tape 21 to board 21, and cutting board 21 and tape 28 lengthwise to separate board 21 into carton blanks and form edge 16 on each blank (c 5, L 25, to c 8, L 64).

**Claim 21 (and 25 also)**, Bergstein teaches tape 28 to include an adhesive on one side (c 6, L 14-19); however, Bergstein does not teach tape 28 to be a polymeric material, instead of metal, of polyester, polyethylene, or polypropylene (claim 25).

However, cutting edges of a polymeric material of polyester, polyethylene, or polypropylene are well-known in the art of cartons having cutting edges, and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Bergstein that tape 28 be a polymeric material of polyester, polyethylene, or polypropylene, instead of metal, because it is obvious to replace one material with another art recognized alternative material.

**Claim 22**, Bergstein teaches that cutting of board 21 and tape 28 forms a serrated edge in tape 28 and along the cutting edge of each blank (see Fig 1 also). **Claim 23**, Bergstein teaches the blanks include front, bottom, and rear panels 1, 2, and 3, respectively, as well as lid 4 (see Figs 1 and 3 also). **Claim 24**, Bergstein teaches that edge 16 is formed in panel 1 (see Figs 1 and 3 also). **Claim 28**, Bergstein teaches board 21 and tape 28 to be cut simultaneously such that tape 28 and panel 1 each have a matching profile that together form edge 16 (see Figs 1, 3, 9, and 10 also). **Claim 29**, Bergstein teaches that tape 28 is applied in registry with predetermined adjacent edges of the blanks (see Figs 10 and 11 also) cut from boards 21.

**5. Claims 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcalus (US 1,843,429).**

**Claim 21**, Marcalus teaches a method for forming a cutting edge on a dispensing carton where the edge is a film and the carton is of paper. The method includes supplying roll 14 of tape C to an application station at roller 1, applying a length of tape C to a length of carton board B and laminating tape C to board B, and cutting board B and tape C lengthwise to separate board B into carton blanks and form the edge on each blank (p 1, c 2, L 54, to p 2, c 2, L 75).

**Claim 21 (and 25 also)**, Marcalus teaches tape C to include an adhesive on one side (p 1, c 2, L 86, to p 2, c 1, L 10); however, Marcalus does not teach tape C to be a polymeric material, instead of paper or stencil board, of polyester, polyethylene, or polypropylene (claim 25).

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However, cutting edges of a polymeric material of polyester, polyethylene, or polypropylene are well-known in the art of cartons having cutting edges, and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Marcalus that tape C be a polymeric material of polyester, polyethylene, or polypropylene, instead of paper or stensil board, because it is obvious to replace one material with another art recognized alternative material.

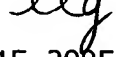
**Claim 22**, Marcalus teaches that cutting of board B and tape C forms a serrated edge in tape C and along the cutting edge of each blank. **Claim 23**, Marcalus teaches the blanks include front, bottom, and rear panels, as well as lids (see Fig 3 also). **Claim 24**, Marcalus teaches that the edge is formed in the front panel (see Fig 3 also). **Claim 28**, Marcalus teaches board B and tape C to be cut simultaneously such that tape C and the front panel each have a matching profile that together form the edge. **Claim 29**, Marcalus teaches that tape C is applied in registry with predetermined adjacent edges of the blanks cut from boards B.

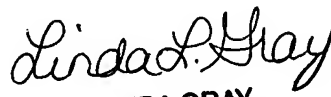
### **Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla, can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public Pair. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-1997 (toll-free).

llg   
April 15, 2005

  
LINDA GRAY  
PRIMARY EXAMINER